

Jay Cousins
W. 524 Euclid Ave.
Spokane, WA 99205

DOCKET FILE COPY ORIGINAL

RECEIVED

FCC Dockets
1919 M Street NW Room 230
Washington DC 20554

FEB 3 1993
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RECEIVED

FEB 01 1993

Docket No. MM 92-266 CABLE RATE REGULATION - BASIC TIER
January 26, 1993

92-266 /

To Whom It May Concern:

Rate regulation is needed in Spokane, Washington. Our cable provider is Cox Cable of Spokane. Subscribers who sign up for "Limited Basic" service are currently paying \$9.95 for a line-up of 12 channels. Five of these channels are the broadcast channels, including Public Broadcasting. Additionally Limited Basic provides one local government channel, one community access channel, and five educational channels. No remote control or cable guide is included in the \$9.95 price.

The Limited line-up initially included C-Span but it has since been dropped. There was no adjustment made to Limited subscribers billing to reflect this deletion thus effecting a rate increase. (Please see the attached letter to the City of Spokane, dated December 6, 1992, from Mr. Laurance Gleason.)

Under the original franchise agreement, instituted in 1974, Cox agreed not to charge more than \$7.95 for the complete channel line-up (not including premium channels) for the life of the agreement (15 years). By the end of the agreement, in 1989, Cox was charging \$18.00 for less channels than they had agreed to provide (37 vs. 52). In my opinion Spokane cable subscribers are well overdue for some redress with regard to Cox's rates. (See the attached testimony that I gave at a December 92 Spokane City Council hearing regarding cable rates for a more in depth review of the history of Spokane's cable franchise.)

I believe that the rates for Basic Tier service should be regulated to the extent that this tier is offered to subscribers for a capped rate of \$4.95 or .50 per channel per month whichever is less. A minimum rate of \$2.95 for those systems that offer less than six channels would be acceptable as well.

It is past the time when cable companies should be allowed to charge more customers higher rates for less service in a bizarre application of the theory of economies of scale.

Thank you for giving this testimony your consideration.


Jay Cousins

TESTIMONY GIVEN TO SPOKANE CITY COUNCIL
AT HEARINGS ON CABLE SERVICES AND RATES
DECEMBER 1992

RECEIVED
FEB 01 1993
FCC-MAIL ROOM

Context is everything when it comes to any discussion of cable tv issues. A sense of history is vital. History shows that in 1974 the City of Spokane passed a franchise ordinance allowing Cox Cable to provide cable service to its citizens. The rate for "regulated" cable in 1974 was \$4.95. Cox promised then that the rate would not exceed \$7.95 over the 15 years of the franchise.

For this fee cable consumers were to receive a "dual trunk" cable system that would provide 56 channels of programming as well as an additional 20 channels of return signal lines. 35 channels comprised the system until 1989. At the time of the franchise renewal in 1990 subscribers were receiving 37 channels on a maxed out system. No return channels were ever provided. Today 51 channels are available. Still not what was originally promised. There are still no available return channels but as a recent enclosure from Cox makes clear they have the ability to eavesdrop on you and observe you through your television if it's hooked to their cable.

In 1977, with 42,000 subscribers, the rate for cable stood at \$6.95. That year a family of four living in Spokane had a median income of nearly

\$10,000. Today there are 80,000+ subscribers who are paying \$21.46 and that family of four now makes nearly \$15,000. That's twice as many households paying three times as much as they were in 1977. If incomes had kept pace our median family would be making \$30,000. So in 15 years the number of subscribers increased 100% and the rates climbed 200%, while the number of channels went up 40% and wages increased 50%.

One of the things we've all learned is that if you can sell your product to more people you can sell it cheaper. Cox Cable refutes this logic by charging more customers increased prices for less product than originally agreed to.

Presently Cox Cable has 80,000 subscribing households. If the average monthly cable bill is \$25.00 then yearly gross sales are about \$24 million. What does this money really buy for the local subscriber? Only Cox Cable knows for sure and the information is not available to the public. Part of the reason for this lack is that Cox has not been audited, by an independent auditor, in 16 years.

The City collects a fee from Cox Cable for allowing the use of the public right of way for the coaxial wire that carries the video signal to our homes. Currently this fee is 5% of the cable providers' gross revenue. 5% will provide our local government with an additional \$1.2 million in general funds this year. This fee is an allowable pass through cost; if you have cable this fee is itemized on your bill.

The city does not allocate any specific amount for cable oversight. Not directly allocating any of this money for cable oversight is an effective way to eliminate the involvement of, as well as any protections for, the subscribing public.

Having attended and videoed sixteen months and seventeen meetings worth of Advisory Board business I, and the video tape, can attest to the fact that the board's performance in the areas of due process, examination of relevant issues, promotion of the Board and its' role to the public, oversight of Community Access, oversight of C.A.B.L.E. and financial review has been and currently is far below what would be expected from any such board.

Such issues as independent auditing of Cox (not done in 16 years), review of Cox Community Access policies and handbook, adhering to the dispute resolution process, a cable subscriber survey, loss of the Community Access newsletter and adding a Latino channel are all issues that the Cable Advisory Board has refused to address in any fashion other than to dismiss them as not worthy of consideration. All of these issues are addressed either directly or by inference in the Cable Franchise Agreement and Regulatory Ordinance as well as by the Boards' own mission statement.

Not once has the CAB taken up or taken action on such issues as: future rate regulation, examination of the franchise fee and what Cox does or doesn't include in their gross subscriber revenue figure. There has been no accounting of the Community Access funds nor the Community Match Grant funds. Cox spends \$150,000 of public funds without any oversight. No accounting is made of exactly what services and equipment are being purchased with the Community Access money. The additional, franchise required, \$100,000 yearly match grant has seen over \$175,000 dollars slip through the community's fingers unmatched while the board refuses to become involved in active promotion of the fund.

The Spokane Astronomical Society was charged \$600, by Cox, for a Community Access program that should have been free. The CAB reaction upon hearing about the charges was that the issue was not worth considering.

Review of the Olympic Triplecast lease back contract regarding how much Cox is paying for the channels and what agency or body received the money from the lease. This issue resulted in the City providing a gift to Cox Cable of \$40,000 .

Until September of this year there had been no discussion of subscriber complaints or any other subscriber issues by the board. In September the first disscussion about cable regulation took place.

This is the board that represents the interests of 80,000 cable subscriber households some 160,000 to 200,000 citizens. Yet not one position paper, finding of fact or recommendation has been generated in 24 months. Not one Cox Cable policy has been reviewed. No financial review, discussion or documents, can be found either in the Board minutes or in the public file. With the exception of a board members one page report on Cox's "match grant" application form , a half page report on Community Access and another board members two pages of individual and personalized rebuttal to a citizen request this Board has written nothing in 24 months.

Overall the board has been quite hostile to input. Raising an issue about the right to post A CAB meeting time and place notice on the bulletin board in the Cox Community Access lobby was characterized, by a board member as a "cheap shot".

Mr. Dixon and other board members seem to believe that this is an acceptable way to deal with issues that they are opposed to. While not every Board member has acted in this manner four out of seven are consistent in their attempts to limit public input. The other members generally acquiesce with the board often voting unanimously.

I do not understand why the CAB would refuse to provide the oversight that they are charged with. There are tens of thousands, perhaps hundreds of thousands, of dollars at stake here not to mention the rights of subscribers or the citizens involved in Community Access. For Board members to ignore the financial and other aspects of their charge is to disregard the public trust inherent in their positions on the Cable Advisory Board.

That this board suffers from failures of leadership, lack of follow up and the inability to rise above either personal prejudice or, apparently conflicting professional interests are all self evident when one reviews the sixteen months of video taped meetings that I have produced. Even if the tapes did not exist the minutes of the CAB meetings reflect that nothing is being done.

The City Council Cable Liaison, Ms. Reikofski has not attended a CAB meeting since September of 1991. This sort of disregard is the rule when it comes to the cable franchise; witness the previous fifteen year franchise under which no oversight ever occurred ultimately costing the tax paying and cable subscribing public millions of dollars in lost revenue and services.

When I asked that the CAB meetings be cablecast on City Cable 5 the request was denied and the Board refused to make any recommendation or even to work with myself and the Channel 5 staff to enable the cablecasting of the Board meetings. A waste of time and poor television was the characterization the Board used to describe my efforts. Considering that the City Council meetings and such things as C-Span's gavel to gavel coverage are now some of the most watched programming on television it seems odd that this particular Board's attitudes are so out of touch.

I cannot stress enough how vital this Board is to the citizens of Spokane and Spokane County. This is a Board that is looking out for the interests of 70,000+ households while providing oversight on the most powerful medium of communication in history. Failure to perform this oversight function in the areas I have mentioned, as well as on numerous other related issues, only serves the cable company and not the subscriber or the public.

Page 34 of the Cox Cable Community Production Workbook dated April 1992
Chapter: Rules, Regulations, Policies & Procedures, Section: NOTICES

COX CABLE SPOKANE'S COMMUNITY PRODUCTION FACILITY RULES, REGULATIONS, POLICIES AND PROCEDURES, REQUIREMENTS, CHARGES, FORMS AND EQUIPMENT ARE SUBJECT TO CHANGE AT ANY TIME WITHOUT NOTICE.

FAILURE TO ABIDE BY ANY REQUIREMENT OF THESE COMMUNITY PRODUCTION FACILITY RULES, REGULATIONS, POLICIES AND PROCEDURES MAY RESULT IN:

1. VERBAL WARNING

2. WRITTEN WARNING, AND/OR

3. COMPLETE OR PARTIAL SUSPENSION OF ACCESS TO EQUIPMENT, FACILITIES AND SERVICES FOR A PERIOD TO BE DETERMINED BY THE COMMUNITY PRODUCTION STAFF.

IN OTHER WORDS: AFTER ANY VIOLATION OF THESE RULES, YOU MAY BE OUT! SO WE ASK THAT YOU READ AND ABIDE BY THESE RULES, REGULATIONS, POLICIES AND PROCEDURES. ANY QUESTIONS YOU HAVE MAY BE DISCUSSED WITH A STAFF MEMBER.

ANY DISPUTE RESOLUTION, DECISION, EXCEPTION OR WAIVER TO THESE RULES, AND ANY MODIFICATION OR INTERPRETATION OF THE POLICIES SET FORTH HEREIN SHALL BE IN THE SOLE DISCRETION OF THE COMMUNITY PRODUCTION FACILITY STAFF, AND ALL DECISIONS ARE FINAL.

In short if a Community Access producer does not have signed model releases they can be suspended from Community Production for an unspecified length of time. By these rules I am forced to obtain signed releases from each of the board members as well as any other person, including Mr. Collins, the General Manager of Cox Cable, who would attend the public Board meetings.

(In reference to a 1988 survey of cable subscribers conducted by the City.)

"4000 surveys were sent out with the utility bills.....660 households responded. This is a very good response and provides good statistical inference. The results indicate that Spokane overall gives Cox Cable a C+ for quality and a D+ for price.

34% complained of picture quality. 32% complained of equipment failure. 41% complained about telephone access and 17% reported billing problems.

The Cable Advisory Board has characterized subscriber concerns in the following manner. groundless, frivolous and irresponsible.

SPOKANE CABLE ADVISORY BOARD
SPECIAL CONSIDERATION AND CONFLICTS OF INTEREST

MEMBER	COMPLETE APPLC	CONFLICTS	QUOTES
Mr. Grant Dixon III	yes	Momentum board	

"I have special interest in seeing that quality programs continue on cable, and that the best interests of the public are served."

No current board, committee or organization memberships are listed with dates of participation or office(s) held. Latest dated reference 1987.

Mr. Dixon is a golfing partner of Mr. Alan Collins, General Manager of Cox Cable.

MEMBER

COMPLETE APPLC

CONFLICTS

QUOTES

Father Robert V. Lyons

none

C.A.B.L.E.

"I did contact Fr. Lyons, and he stressed that if the Mayor would like him to be part of the Cox Cable Advisory Committee Board that he would gladly do so. However he does not want it to appear as if he is applying..." (From a letter to Mary Franklin(?) @ Spokane City Hall, written by Angela Ruff, Secretary, dated July 23, 1990 and on letterhead stationery from the office of the president, Gonzaga University.)

No current board, committee or organization memberships are listed with dates of participation or office(s) held. (Latest dated reference 1988, chair of C.A.B.L.E.). (From a submitted resume.)

Mr. Claude Kistler

none

C.A.B.L.E.

"It may appear that my interests are rather self (or institutionally) directed because of the station's affiliation with School District #81 and the fact that KSPS serves as the managing institution for the five educational channels. (C.A.B.L.E.) I assure you that this is not the case." *Italicized brackets mine.*

In a related letter, addressed to Mayor Barnard and written on Spokane Falls Community College stationery, signed by Mr. John Thompson, chair, Cable Advisory Board for Learning and Education (C.A.B.L.E) "The Cable Advisory Board for Learning and Education seeks representation on the Cable Advisory Board....As chairman of C.A.B.L.E., I am forwarding you our request to be represented by Claude Kistler."

Mr. David L. Broom

incomplete application

Chamber of Commerce

No quote available due to the incompleteness of the application. The following is a list of unanswered application questions: Home phone, volunteer experiences, skills/special interests, current and past positions held on city board-committee-commission, why do you feel you are qualified to serve...explain that this qualification would not create a conflict of interest.

Mr. Broom is legal council for the Chamber of Commerce as well as lead council for Washington Water Power.

Laurance R. Gleason
W. 3231 Boone Ave. #409
Spokane, Wa. 99201
(509) 326-8109

December 6, 1992

Gary Persons
W. 808 Spokane Falls Blyd.
Spokane, Wa. 99207

RE: Cox Cable TV

Dear Mr. Persons:

I've given up trying to call and decided to write. The staff at city hall seems to think Mr. Crosby from the city council handles complaints about the cable company, but Mr. Crosby doesn't return his phone calls. The cable company seems to think you are the person to contact. If you are not the right person to contact please forward this letter to the proper office.


Recently the cable company increased the rates for limited basic service by deleting channel 22 (C-SPAN). I called the cable company to inquire about this no notice reduction in service and they offered to make an adjustment of a couple of dollars to my next bill.

I have a couple of questions I would like answered concerning this matter:

1. Why were the rates increased without prior notice?
2. Is there an approval process that has to be followed when service is changed?
3. If there is an approval process was it followed?
4. If the cable company was willing to adjust my next bill then why didn't they adjust everyones next bill and explain the reason?

I look forward to your response in this matter.

Thank you,


Laurance Gleason